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7 IN THE UNITED STATES DISTRICT COURT  
8 FOR THE EASTERN DISTRICT OF CALIFORNIA

9 GUY T. STRINGHAM,

10 Plaintiff, No. CIV S- 04-1530 DFL GGH P

11 vs.

12 R. LEE, et al.,

13 Defendants. ORDER

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15 The court's review of defendants' pending motion for summary judgment in this  
16 § 1983 action, filed on April 21, 2006, reveals that a supporting declaration, cited as sole support  
17 by defendants for certain undisputed material facts, is signed by Custody Captain Marc Kaplan,  
18 but not under penalty of perjury.

19 Accordingly, IT IS ORDERED that:

20 1. Defendants must file an affidavit/declaration by Captain Kaplan that includes  
21 his signature under penalty of perjury, within five days of the filed date of this order; and  
22 2. Failure to do so will result in defendants' pending motion for summary  
23 judgment being vacated from the court's calendar as defectively filed.

24 DATED: 1/24/07

/s/ Gregory G. Hollows

25 GREGORY G. HOLLOWS  
26 UNITED STATES MAGISTRATE JUDGE